



## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

July 6, 2000

### **H.R. 3886** **International Counter-Money Laundering and** **Foreign Anticorruption Act of 2000**

*As ordered reported by the House Committee on Banking and Financial Services  
on June 8, 2000*

#### **SUMMARY**

H.R. 3886 would authorize the Secretary of the Treasury to impose special measures on U.S. financial institutions if the Secretary suspects the transactions of their foreign clients are tied to money laundering. Such measures could include increasing recordkeeping and reporting requirements and regulating or prohibiting certain types of financial accounts. The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation (FDIC), the Office of Thrift Supervision (OTS), the National Credit Union Administration (NCUA), the Commodity Futures Trading Commission (CFTC), and the Securities and Exchange Commission (SEC) would enforce the provisions of H.R. 3886 as it applies to the financial institutions that those agencies now regulate.

The bill would impose criminal and civil fines on violators of recordkeeping requirements in Geographic Targeting Orders (GTOs) that may be issued by the Secretary of the Treasury under current law. The bill also would impose criminal and civil penalties on individuals or firms for structuring currency transactions to evade certain financial reporting requirements.

CBO estimates that implementing H.R. 3886 would cost about \$2 million a year over the 2001-2005 period. Such costs would be subject to the availability of appropriated funds. H.R. 3886 would affect direct spending and receipts; therefore, pay-as-you-go procedures would apply, but CBO estimates that any such effects would be less than \$500,000 a year over the 2001-2005 period.

H.R. 3886 contains intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) because it would place certain requirements on some state and local agencies. CBO estimates that the cost of complying with these mandates would be small,

and would not exceed the statutory threshold of that act (\$55 million in 2000, adjusted annually for inflation).

H.R. 3886 also would impose private-sector mandates, as defined by UMRA, on financial institutions and other financial organizations as defined in the bill. CBO expects that the direct costs of those mandates would not exceed the annual threshold established by UMRA for private-sector mandates (\$109 million in 2000, adjusted for inflation) for any of the first five years that mandates are in effect. Because the costs of complying with new requirements on financial institutions would depend on specific measures that would be established by the Secretary of the Treasury, CBO cannot make that determination with confidence.

## ESTIMATED COST TO THE FEDERAL GOVERNMENT

For this estimate, CBO assumes that the bill will be enacted by or near the start of fiscal year 2001 and that the necessary amounts will be appropriated for each year. The estimated budgetary impact of H.R. 3886 is shown in the following table. The costs of this legislation fall within budget function 370 (commerce and housing credit).

	By Fiscal Year, in Million of Dollars				
	2001	2002	2003	2004	2005
<b>CHANGES IN SPENDING SUBJECT TO APPROPRIATION<sup>a</sup></b>					
Estimated Authorization Level	2	2	2	2	2
Estimated Outlays	2	2	2	2	2

a. The bill also would affect direct spending and revenues, but CBO estimates that those changes would each be less than \$500,000 a year.

## BASIS OF ESTIMATE

CBO estimates that implementing H.R. 3886 would increase administrative costs at agencies that regulate financial institutions by about \$2 million a year. In addition to this effect on discretionary spending, the bill also would have a negligible effect on the collection and spending of civil and criminal penalties. Finally, the legislation would have a small effect on the operating costs of the FDIC.

## **Spending Subject to Appropriation**

H.R. 3886 would authorize the Secretary of the Treasury to impose special measures on U.S. financial institutions if the Secretary suspects the transactions of their foreign clients are tied to money laundering. Because we expect few such measures would be imposed, CBO estimates that implementing H.R. 3886 would increase the costs of the Department of the Treasury, the SEC, the CFTC, and the NCUA by a total of about \$2 million a year over the 2001-2005 period. Such costs would primarily be for the SEC to provide guidance to the National Association of Securities Dealers on examining the records of brokers of securities for transactions that may involve money laundering.

Under current law, the Secretary of the Treasury may impose more stringent recordkeeping requirements on financial service providers within a specified geographic area by issuing GTOs. H.R. 3886 would impose criminal penalties for violating GTOs or structuring currency transactions to evade certain federal reporting requirements. As a result, the federal government would be able to pursue cases that it otherwise would not be able to prosecute. CBO expects that the government probably would not pursue many such cases, so we estimate that any increase in federal costs for law enforcement, court proceedings, or prison operations would not be significant. Any such additional costs would be subject to the availability of appropriated funds.

## **Direct Spending and Revenues**

Both the OTS and the OCC charge fees to cover all their administrative costs; therefore, any additional spending by these agencies to implement the bill would have no net budget effect. That is not the case with the FDIC, however, which uses deposit insurance premiums paid by all banks to cover the expenses it incurs to supervise state-chartered banks. The bill would cause a small increase in FDIC spending, but would probably not affect its premium income. In any case, CBO estimates that H.R. 3886 would increase direct spending and offsetting receipts for those agencies by less than \$500,000 a year over the 2001-2005 period.

Budgetary effects on the Federal Reserve are recorded as changes in revenues (governmental receipts). Based on information from the Federal Reserve, CBO estimates that enacting H.R. 3886 would reduce such revenues by less than \$500,000 a year over the 2001-2005 period.

Because those prosecuted and convicted under H.R. 3886 could be subject to penalties, the federal government might collect additional fines if the bill is enacted. Collections of such fines are recorded in the budget as governmental receipts, which are deposited in the Crime

Victims Fund and spent in subsequent years. CBO expects that any additional collections from enacting H.R. 3886 would be negligible, however, because of the small number of cases likely to be involved. Because any increase in direct spending would equal the fines collected, the additional direct spending also would be negligible.

## **PAY-AS-YOU-GO CONSIDERATIONS**

The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you go procedures for legislation affecting direct spending or receipts. CBO estimates that enacting H.R. 3886 would affect direct spending and governmental receipts but that there would be no significant impact in any year.

## **ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS**

Title I of the bill would place new reporting requirements on certain state and local agencies that act like financial institutions. Title II would prohibit employees of state, local, tribal, and territorial agencies from disclosing certain reported information to the individual involved in the report. The prohibition would be a mandate under UMRA because it would effectively be placed on the governmental employer as well as the employee. CBO estimates that the costs of complying with these mandates would be small, and would not exceed the statutory threshold established in UMRA (\$55 million in 2000, adjusted annually for inflation).

## **ESTIMATED IMPACT ON THE PRIVATE SECTOR**

H.R. 3886 would impose private-sector mandates, as defined by UMRA, on financial institutions and other financial organizations as defined in the bill. CBO expects that the direct costs of those mandates would not exceed the annual threshold established by UMRA for private-sector mandates (\$109 million in 2000, adjusted for inflation) for any of the first five years that mandates are in effect.

H.R. 3886 would authorize the Secretary of the Treasury to impose new recordkeeping and recording requirements regarding the identity, beneficial ownership, and transaction record of accounts opened and maintained by foreign financial institutions and persons. In addition, the bill would, in extreme cases, allow the Secretary to impose conditions upon, or prohibit outright, the opening or maintaining of correspondent or payable-through accounts. (Payable-through accounts, as defined in the bill, allow customers of a foreign bank to conduct banking operations through a U.S. bank just as if they were its own customers.)

According to industry sources, at least two aspects of the reporting requirements under H.R. 3886 could impose new burdens that could result in significant costs of compliance to the private sector. First, the bill would authorize the Secretary to require domestic financial institutions to take steps to obtain and retain information concerning the beneficial ownership of an account. This requirement could constitute a more stringent standard than current requirements, depending on how it were imposed by the Secretary, since it may require the institution to delve into the underlying ownership of the account. Financial institutions expect that they would have to make adjustments in current practices to comply with new standards regarding beneficial owners and are particularly concerned if such a standard would apply to trust departments. (Most securities are not registered in the name of beneficial holders but are held in securities depositories for banks and brokerage firms that hold securities for their customers.)

Second, possible prohibitions and conditions on the opening or maintaining of correspondent and payable-through accounts could impose a direct loss of business and profit on the affected firms. The extent of these conditions and prohibitions, and hence the resulting costs, would hinge on the frequency and severity of their imposition. This in turn would depend on the number of foreign jurisdictions and institutions identified as primary money laundering concerns, the economic importance of these jurisdictions and institutions to domestic financial institutions, and the severity of the possible conditions.

Based on information from the Department of the Treasury and industry experts in the area of money laundering, CBO expects that the likelihood that the Treasury would impose broad-based special measures on the industry is small. Most experts expect that a series of actions would be taken—increased enforcement under the Bank Secrecy Act, consultations with various groups, and so forth—before the Secretary would impose new requirements under H.R. 3886. CBO believes that direct costs of the mandates in the bill would be below the annual threshold established in UMRA. Because compliance costs would depend directly on specific standards that would be established by the Secretary of the Treasury, CBO cannot make that determination with confidence.

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